

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

JOSEPH PAPP

CRIMINAL NO. 2:10-cr-00004-GLL

DEFENDANT'S MOTION TO POSTPONE REVOCATION HEARING

AND NOW comes the Defendant, Joseph Papp ("Papp"), by his attorneys, William F. Ward, Esquire, and Ward McGough, LLC, and respectfully moves to postpone the Revocation Hearing now set for Tuesday, June 22, 2010, at 10:00 a.m.

In support of this motion, Papp respectfully avers as follows:

1. On February 17, 2010, Papp appeared in Court to waive indictment and pleaded guilty to the two-count information filed against him.
2. On February 17, 2010, Papp acknowledged receipt of his unsecured Appearance Bond in the amount of \$25,000.
3. On June 6, 2010, the Bethel Park Police Department charged Papp with simple assault in connection with a domestic dispute with his girlfriend, Ms. Carissa Gilbert ("Gilbert"). The Bethel Park Police Department also charged Gilbert with simple assault for her actions in the same incident, which included hitting Papp in the face while he was driving and breaking his nose.
4. On June 10, 2010, the United States Probation Office filed its *Petition for Action* and requested that the Court schedule a Revocation Hearing.

5. On June 14, 2010, the Court granted the Petition and scheduled a Revocation Hearing for Tuesday, June 22, 2010, at 10:00 a.m.

Bethel Park Incident

6. Papp admits that he was charged with simple assault by the Bethel Park Police Department. The matter is scheduled for a Preliminary Hearing before Magisterial District Judge Wyda on Monday, June 21, 2010.

7. As noted above, and as is commonly done with domestic disturbances, the Bethel Park Police Department also arrested Gilbert and charged her with simple assault. The *Affidavit of Probable Cause*, attached hereto as Exhibit A, indicates that Gilbert and Papp had gotten into an argument while shopping at the South Hills Village Mall. During the ride to Papp's Bethel Park home, the argument became physical: Gilbert started hitting Papp in the face *while he was driving*, breaking Papp's nose. Notwithstanding the severity of Papp's injuries, it is anticipated that the parties will reconcile and not press assault charges against each other.

8. It is also anticipated that the Court will continue the Preliminary Hearing for three months, and will allow Papp and Gilbert to demonstrate good conduct, such as taking a course dealing with anger management. It is hoped and therefore averred that, at the conclusion of the three-month period, the charges will be withdrawn or reduced to summary offenses.

Failure To Report Arrest

9. On Sunday, June 6, 2010, after being detained in the Allegheny County Jail, officials at the Jail advised Papp that they would notify the United States Probation Office of Papp's arrest on the simple assault charges. It is believed that, in fact, the Jail officials did contact the United States Probation Office on or about Monday, June 7, 2010.

10. Papp mistakenly believed that notification by Jail Officials, together with advising the Probation Office during his next scheduled appearance at the office's kiosk, would satisfy his obligation to notify the Probation Office of his contact with the Bethel Park Police Department.

11. Papp, together with his counsel, did contact USPO Guenther on June 11, 2010, at which time Papp profusely apologized to USPO Guenther for his failure to report his contact with law enforcement. Papp hereby apologizes to the Court as well for his failure.

12. It is the belief of counsel that Papp's telephone conversation with USPO Guenther on June 11, 2010, was extremely beneficial. It has reminded Papp of his obligations and has motivated him to be more responsive to the Probation Office and counsel.

Possession of Firearms

13. The Petition alleges that "the defendant was *reportedly* in possession of two firearms." (Emphasis added.) During the aforementioned telephone conversation with USPO Guenther on June 11, 2010, she confirmed that the source of that report was Gilbert's statement to the Bethel Park Police at the time that Gilbert and Papp were arrested.

14. It is respectfully submitted that, at most, Gilbert reported to the police that Papp *owns* two firearms.

15. *While Papp, in fact, owns two firearms, he has not possessed them since January 23, 2010.* In anticipation of his appearance in court on February 17, 2010, Papp asked Patrick Lyons, a former Federal Air Marshal, to take possession of the firearms. Accordingly, as shown in the attached *Affidavit of Patrick Lyons*, attached hereto as Exhibit B, "the two subject firearms have been in [Lyons'] constant possession since January 23, 2010, to the present."

WHEREFORE, based upon the foregoing, Papp respectfully requests that his motion be granted and that the Revocation Hearing be rescheduled to September 24, 2010, or some other date set by the Court.

Respectfully submitted,

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/s/ William F. Ward

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